

Collection Due Process (CDP), IRS Appeals

June 28, 2005



The History of CDP

RRA'98 codified the right to CDP:

- It insures that the Service follows the law in collection matters
- It allows the taxpayer time to be heard when enforcement action is undertaken
- It allows a discussion of “less intrusive” collection alternatives



What are CDP Rights and When Can They be Exercised?

Taxpayer entitled to a hearing before an impartial Appeals Service:

- After Notice of Federal Tax Lien has been **filed** (IRC § 6320)
- After notice of **intent** to levy has been issued (IRC § 6330) *

June 28, 2005




What Happens When the CDP Request is Filed?

- Case is referred to Appeals for a hearing
- Suspends collection statute *
- IRS may not levy *
- Right to judicial review of Appeals determination if requested timely

*In most cases

June 28, 2005



What Kind of Hearing Do You Get?

- Informal
- By correspondence, telephone, or face-to-face meeting...your choice
- With a Settlement Officer with no prior involvement in the tax periods involved (unless waived)
- Petitioner may go to Tax Court (most cases) or District Court if they initiate timely action

June 28, 2005



Where Will the Hearing Be Held?

- Telephonic or correspondence conferences may be conducted from our Campus locations
 - Fresno
 - Memphis
- Local Appeals Offices will still handle all “face-to-face” conferences

June 28, 2005



What Appeals Considers: The “Big” Three

1. Did IRS follow required procedures?
2. Issues the taxpayer raises
3. Balancing the need for efficient tax collection with the taxpayer's legitimate concerns about intrusiveness

June 28, 2005



Issues the Taxpayer May Raise

- Innocent Spouse
- Challenges to the appropriateness of the proposed collection action
- Offers of Collection Alternatives

(Appeals will **not** consider moral, religious, constitutional, conscientious objection, or similar grounds)

June 28, 2005



Underlying Liabilities?

May be considered:

- Innocent spouse
- Self-assessed returns
- Assessments for which no statutory notices were issued

May **not** be considered :

- Issues decided by a court, or raised and considered at a previous CDP hearing or Appeals conference regarding this tax liability

June 28, 2005



Collection Alternatives

- Installment Agreements
- Offers In Compromise
- Substitution of other assets
- Posting of a Bond

All considered subject to IRS
administrative requirements

June 28, 2005

What Other Rights Do Taxpayers Have?

CDP is not the only avenue for taxpayers with collection problems -

- Speak to Collection/ACS Manager
- Hardship Considerations - the Taxpayer Advocate (911 process)
- Collection Appeals Program (CAP)
- Fast Track Mediation

June 28, 2005





For More Information

- www.irs.gov Keyword = Appeals
(*Appeals Today and Tomorrow* video)
- Publication 1660 (Collection Appeal Rights)
- Publication 4165 (An Introduction to CDP Hearings)

June 28, 2005